

*** PUBLIC VERSION ***

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

UNITED STATES OF AMERICA,

Plaintiff,

v.

ZACKARY ELLIS SANDERS,

Defendant.

Case No. 1:20-cr-00143

Honorable T.S. Ellis, III

DEFENDANT'S RESPONSE TO COURT'S MARCH 31, 2022 ORDER

Zackary Ellis Sanders, by and through undersigned counsel, files this Response to the Court's March 31, 2022 Order (ECF No. 616), which directed the parties to meet and confer regarding what redactions, if any at all, are necessary to the Sealed Memorandum Opinion so that a public version may be filed.

Mr. Sanders has reviewed the government's proposed redactions and believes none are necessary because none of the information the government proposes to redact should be considered sensitive or protected: all of the information is public knowledge. *See, e.g.,* Opp'n to Gov't Mot. for Order to Show Cause and to Seal (ECF No. 184).¹

Mr. Sanders specifically objects to the name of the target website being redacted, because it has been publicly referred to by the government in other cases, including ones that clearly stem from the same operation, as well as in public news article. The fact that U.S. law enforcement, including the FBI, were investigating the target website, and that numerous cases arise from that

¹ Mr. Sanders does not believe that his Response should be filed under seal for the reasons discussed herein, but files this Response partially under seal in the event the Court disagrees.

investigation of the target website, are part of the public domain. Examples of public references to the target website, including by the government, have been accumulating throughout the litigation of this case. For ease of reference, some examples are provided below.

The name of the target website appears on the public docket:

1. [REDACTED] (Complaint) (naming [REDACTED] as the target website, making clear that the case arose from the same operation as this case, and making clear that the FBI was investigating the target website). ECF No. 588-2.
2. [REDACTED] (Plea Agreement) (naming and describing the target website). ECF No. 321-5.
3. [REDACTED] (Complaint) (identifying the target website as the site that an Internet user purportedly accessed on Tor in spring 2019 and that the foreign law enforcement agency transmitted this information to the FBI in August 2019). ECF No. 354-9.
4. [REDACTED] (Statement of Facts) (revealing that [REDACTED] shared his username and password to the target website with the FBI). ECF No. 588-6.

The name of the target website has been publicly reported in the news:

1. [REDACTED] ECF No. 476-1 (describing and naming the target website and describing U.S. law enforcement's joint investigation of the creator of the target website).
2. [REDACTED] ECF No. 476-2 (similar).
3. [REDACTED] ECF No. 476-3 (similar).

4. [REDACTED] (naming and describing the target website using the same language as the foreign law enforcement agency did in one of the purported tip documents). ECF No. 321-6.
5. [REDACTED] (naming and describing the target website and describing the tip from the foreign law enforcement agency to the FBI, and the FBI's subsequent investigation). ECF No. 321-7.
6. [REDACTED] (same).

For the reasons set forth above, in his Opp'n to Gov't Mot. for Order to Show Cause and to Seal (ECF No. 184), and any other reason appearing to the Court, Mr. Sanders respectfully requests that the Court file its Memorandum Opinion publicly, without any redactions.

Respectfully submitted,

/s/

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Counsel for Defendant Zackary Ellis Sanders

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of April 2022, the foregoing was served electronically on the counsel of record through the US District Court for the Eastern District of Virginia Electronic Document Filing System (ECF) and the document is available on the ECF system.

/s/ Jonathan Jeffress
Jonathan Jeffress